

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

SCOTT E. SPATES,

Plaintiff,

v.

Case No. 15-cv-46-pp

LT. BEULEN,

Defendant.

**DECISION AND ORDER GRANTING PLAINTIFF'S
MOTION TO PAY FILING FEE FROM RELEASE ACCOUNT**

The plaintiff is a prisoner. On May 13, 2015, the court screened the plaintiff's civil rights complaint pursuant to 28 U.S.C. §1915A, and dismissed the complaint for failure to state a claim. The court also directed the Secretary of the Wisconsin Department of Corrections or his designee to submit the \$346.11 balance of the filing fee to the Clerk of Court over time, pursuant to the statutory formula set forth in 28 U.S.C § 1915(b). The plaintiff has filed a motion to pay the remainder of the filing fee "all at once" from his release account. He states that he has \$917.18 in his release savings account.

The Prison Litigation Reform Act requires the court to collect the filing fee from a "prisoner's account." 28 U.S.C. §1915(b). The term "prisoner's account" encompasses both a prisoner's release account and general account. *Spence v. McCaughtry*, 46 F. Supp. 2d 861, 862 (E.D. Wis. 1999). At least one judge in this district has concluded, however, that "given the purpose of the release account to provide funds to the prisoner upon his or her release from

incarceration, the court does not deem it prudent to routinely focus on the release account as the initial source of funds to satisfy the filing fee payment requirements of the PLRA.” *Smith v. Huibregtse*, 151 F. Supp. 2d 1040 (E.D. Wis. 2001). Despite this, if a plaintiff asks, the court will allow a plaintiff to pay a filing fee out of his release account. *Doty v. Doyle*, 182 F. Supp. 2d 750, 752 (E.D. Wis. 2002).

The plaintiff has made it clear that he wants to have the remainder of the filing fee (\$346.11) deducted from his release account, and has demonstrated that he has enough money in his release account to do so.

The court **GRANTS** the plaintiff’s motion to pay filing fee from release account (ECF No. 9).

The court **ORDERS** that the warden at Oshkosh Correctional Institution shall withdraw \$346.11 from the plaintiff’s release account and forward that sum to the Clerk of this Court as payment of the remainder of the filing fee in this case. The court will send a copy of this order to the warden at Oshkosh Correctional Institution.

Dated at Milwaukee this 5th day of June, 2015.

BY THE COURT:



HON. PAMELA PEPPER
United States District Court Judge